REMARKS

Pending Claims

Claims 1, 3, 5, 9, 11, 13, 15-20 and 22-56 are pending in the application.

Outstanding Rejections

All outstanding rejections (except for the rejection of claims 1, 3, 5, 9, 11, 13, 15-20 and 22-56 under 35 U.S.C. 103(a)) have been overcome by Applicants' Response to the Office Action of April 9, 2002 (filed October 15, 2002.)

The Obviousness Rejection.

Rejection of Claims 1, 3, 5, 9, 11, 22-24 and 28-36 over JP7118592 in view of Yolles and EP600205.

JP7118592 and the claims of the present application are different not only with respect to pearlescent pigment and glass flake pigment but also in dyes and coloring pigment (currently amended claims 1 and 3.)

Pearlescent pigment and glass flake pigment are different from each other in that while the pearlescent pigment does not have coated metal, the glass flake pigment has coated metal. Further, they are different from each other in that while JP7118592 does not disclose a smooth particle surface, the claimed invention here is restricted to a smooth surface. In the ink of the present invention, by employing this glass flake pigment, glittering written marks can be formed with light realizing metallic reflection like a stardust since glittering pieces (glass flake coated with a metal) are scattered among, for example, a blue ground color (coloring pigment).

JP7118592 is a "gloss ink" in which a written mark having a metal luster color is formed. Therefore, since JP7118592 is an ink whose object is to form a written mark including, for example, a blue metal luster color and green metal luster color, JP7118592 would not motivate one to produce an ink of the present application in which glittering pieces (glass flake coated with a metal) are scattered among, for example, a blue ground color (coloring pigment). JP7118592 would not motivate one to employ a glittering ink in which a glittering piece glitters like a stardust in a written mark having a colored pigment color. Therefore, the teachings of Yolles and EP600205 cannot be combined with JP7118592.

Claims 1 and 3 of the present application recite a coloring pigment and, therefore, are different from a dye as described in JP7118592.

An ink of the present application is, as already mentioned, an ink in which glittering pieces (glass flakes coated with a metal), are scattered among a ground color of, for example, blue pigment particles (coloring pigment) thereby forming glittering written marks like a stardust in a written mark having a color of a coloring pigment.

Therefore, now that the difference is made specific in relation to dyes, the rejection judging that the present claims are not patentable from the viewpoint of Yolles and EP600205 is not appropriate.

In addition, claim 3 has been amended to limit the minimum value of 25 μm based on the description of the examples of the present application. In view of the description in JP7118592 that the maximum value of particle diameter of a pearlescent pigment is 20 μm, it can be said that none of JP7118592, Yolles and EP600205 discloses that the glass flake pigment which is

greater than the pearlescent pigment of JP7118592 can be used as an ink for a writing tool and that an ink capable of forming a written mark which glitters like a stardust in combination with a glass flake whose particle diameter is not less than 25 μm and coloring pigment.

Rejection of claims 15-20, 25-27 and 37-42 over JP7118592 in view of Yolles and EP600205 further in view of Morita

The claims of the present application that recite a resin emulsion recite the resin emulsion with the aim being to fix a resin emulsion whose particle diameter is large to a written mark. Morita does not suggest using a resin emulsion as a fixing agent to a written mark. Since, in the present invention, the viscosity modifier of the ink is a water soluble resin and since an ink comprising microbial polysaccharides and derivatives thereof (e.g., claim 42) is a gel ink that provides an ink with thixotropic property, there is no motivation to use a resin emulsion in order to modify ink viscosity. The same can be said about claims 15-20, 25-27 and 37-41.

Rejection of Claim 13 over JP7118592 in view of Yolles and EP600205 further in view of Whyzmusis

As previously mentioned, since it is impossible to combine the teachings of Yolles and EP600205 and JP7118592, claim 13 is not obvious even if Whyzmusis may disclose the use of opacifying pigment.

Rejection of Claims 43-49 over JP7118592 in view of Yolles, Morita and EP600205

The same argument as made in connection with claims 1, 3, 5, 9, 11, 22-24 and 28-36 applies to this rejection. In particular, claims 43 to 49 are directed writing tools, and none of Yolles, Morita, or JP7118592 discloses the claimed structure in writing tools.

Rejection of Claims 50-56 over JP7118592 in view of Yolles and Morita

As already mentioned, since JP7118592 is a gloss ink, JP7118592 would not motivate one to produce an ink of the present application in which glittering pieces (glass flake coated with a metal) are scattered among, for example, a blue ground color (coloring pigment) and JP7118592 would not motivate one to employ a glittering ink in which a glittering piece glitters like a stardust in a written mark having a colored pigment color. Further, the viscosity modifier of an ink of the present application is a water-soluble resin and the resin emulsion is a binder component to fix glass flake pigment to a written mark. Morita does not disclose that the resin emulsion is used as a component to fix glass flake pigment to a written mark. Therefore, since the present application does not use a resin emulsion with the motivation of modifying ink viscosity and dryness, one skilled in the art would not employ Morita's disclosure in the present invention.

The Examiner considers that the coating composition of Yolles can be used for writing tools based on the description of Yolles: Column 8, lines 12 to 13 and lines 24 to 25. However, although Yolles describes paper in column 8, lines 12 to 13, it is disclosed along with metal, wood, rubber, and the like and in Yolles, the coating composition is a finish of the article made of said material. The coating composition of Yolles applied for paper is a finish coated on a paper surface. Therefore, this description does not suggest that the coating composition can be used as writing tools.

Although the Examiner asserts that since JP7118592 uses a pearlescent pigment for writing instruments, glass flakes of Yolles can also be used for writing tools as one of the other

usages, that assertion is not appropriate. The reason is that pearlescent pigment and glass flake pigment are different pigments in view of the existence or non-existence of a metal coating, the difference in the degree of smoothness, and other effects resulting from the existence or non-existence of a metal coating. Therefore, one cannot say that glass flake pigment can be applied for writing tools until one conducts experiments. Further, and more importantly, pearlescent pigment is used for the purpose of obtaining a written mark with a metallic luster color as disclosed in JP7118592. And in addition to the usage of glass flake, the present invention uses glass flakes in order to produce a written mark in which glass flakes are scattered among blue ground color (colored pigment) for example and which glitters like a stardust in a written mark having a color of coloring pigment.

Although Yolles may describe "smooth" in column 1, lines 33 to 35, it does not describe that the corner or edge of the flake is smooth.

Further, since Yolles does not disclose the usage in a writing tool, it does not suggest that those skilled in the art would have recognized that the glass flake do not cause clogging or thin spots even when glass flakes are flat and have sharp edges. Although writing tools have balls at the end, it would have been clear to those skilled in the art that success could not be predicted without actually using glass flakes as claimed.

The Examiner agrees that JP7118592 does not disclose an ink having a glittering feeling as in the present claims. Since JP7118592 is an ink which forms a written mark having a metallic luster, it is impossible to combine the way as disclosed in JP7118592 of obtaining this gloss ink with the composition of Yolles. Further, the "other products" described by Yolles,

were a usage in 1962 when the patent issued. As of that time, there is no clear disclosure as to whether its pigment was used for an ink for writing tools. Therefore, it is not appropriate to quote the description of JP7118592 -- which has a later effective disclosure date -- in interpreting what Yolles earlier meant.

Pearlescent pigment and glass flake pigment are pigments showing different feelings. Further, in view of the Yolles description that the finish of articles is exemplified as coating compositions, compounding its pigment as a writing tool is not suggested or motivated.

Since presently amended claims 1 and 3 are limited to coloring pigment-- not to dyes --, the assertions by the Examiner in relation to dyes is not pertinent with respect thereto.

The Examiner admits that it was "well known that glass flakes provide unsatisfactory inks due to blurs or unsmoothness appearing in the written letters and further results in clogging of the pen in the course of writing." Office Action, page 14, 3rd paragraph, 1st sentence. This teaching would act as a disincentive to use glass flakes and a teaching or suggestion that glass flakes should not be used because it was "well known that glass flakes provide unsatisfactory inks..." The Examiner admits that glass flakes were well known in the art to be problematic and unacceptable. The inclusion of glass flake pigment in a ball-point pen ink was therefore not obvious.

CONCLUSION

Reconsideration of the application, in view of the foregoing amendments and remarks and the allowance of the application is requested.

Respectfully submitted,

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